



General Assembly

Substitute Bill No. 5504

February Session, 2004

* HB05504GAE__031704__ *

**AN ACT CONCERNING LEGAL DEFENSE FUNDS ESTABLISHED BY
OR ON BEHALF OF PUBLIC OFFICIALS OR STATE EMPLOYEES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) Any public official or
2 state employee who establishes a legal defense fund, or for whom a
3 legal defense fund has been established, shall file a report on said fund
4 with the State Ethics Commission not later than the tenth day of
5 January, April, July and October. Each such report shall include the
6 following information for the preceding calendar quarter: (1) The
7 names of the directors and officers of the fund, (2) the name of the
8 depository institution for the fund, (3) an itemized accounting of each
9 contribution to the fund, including the full name and complete address
10 of each contributor and the amount of the contribution, and (4) an
11 itemized accounting of each expenditure, including the full name and
12 complete address of each payee and the amount and purpose of the
13 expenditure. The public official or state employee shall sign each such
14 report under penalty of false statement.

15 (b) (1) In addition to the prohibitions on gifts under subsections (j)
16 and (m) of section 1-84 of the general statutes, as amended, and
17 subsection (a) of section 1-97 of the general statutes, no public official
18 or state employee shall accept, directly or indirectly, any contribution
19 to a legal defense fund established by or for the public official or state

20 employee, from (A) a member of the immediate family of any person
21 who is prohibited from giving a gift under subsection (j) or (m) of
22 section 1-84 of the general statutes, as amended, or subsection (a) of
23 section 1-97 of the general statutes, or (B) a person who is appointed by
24 said public official or state employee to serve on a paid, full-time basis.
25 No person described in subparagraph (A) or (B) of this subdivision
26 shall make a contribution to such a legal defense fund, and no such
27 person or any person prohibited from making a gift under subsection
28 (j) or (m) of section 1-84 of the general statutes, as amended, or
29 subsection (a) of section 1-97 of the general statutes shall solicit a
30 contribution for such a legal defense fund.

31 (2) A public official or state employee may accept a contribution or
32 contributions to a legal defense fund established by or for the public
33 official or state employee from any other person, provided the total
34 amount of such contributions from any such person in any calendar
35 year shall not exceed five hundred dollars. No such person shall make
36 a contribution or contributions to said legal defense fund exceeding
37 five hundred dollars in any calendar year.

38 (3) Notwithstanding the provisions of subdivision (2) of this
39 subsection, a public official or state employee may accept a
40 contribution or contributions, in any amount, to a legal defense fund
41 established by or for the public official or state employee from a
42 relative of the public official or state employee or a person whose
43 relationship with the public official or state employee is not dependent
44 on the official's or employee's status as a public official or state
45 employee. The factors that the State Ethics Commission shall consider
46 in determining whether a person's relationship is so dependent shall
47 include, but not be limited to, whether the person may be able to
48 benefit from the exercise of official authority of the public official or
49 state employee and whether the person made gifts to the public official
50 or state employee before the official or employee began serving in such
51 office or position.

52 Sec. 2. Section 1-79 of the general statutes is repealed and the

53 following is substituted in lieu thereof (*Effective from passage*):

54 The following terms, when used in this part and section 1 of this act,
55 shall have the following meanings unless the context otherwise
56 requires:

57 (a) "Blind trust" means a trust established by a public official or state
58 employee or member of his immediate family for the purpose of
59 divestiture of all control and knowledge of assets.

60 (b) "Business with which he is associated" means any sole
61 proprietorship, partnership, firm, corporation, trust or other entity
62 through which business for profit or not for profit is conducted in
63 which the public official or state employee or member of his
64 immediate family is a director, officer, owner, limited or general
65 partner, beneficiary of a trust or holder of stock constituting five per
66 cent or more of the total outstanding stock of any class, provided, a
67 public official or state employee, or member of his immediate family,
68 shall not be deemed to be associated with a not for profit entity solely
69 by virtue of the fact that the public official or state employee or
70 member of his immediate family is an unpaid director or officer of the
71 not for profit entity. "Officer" refers only to the president, executive or
72 senior vice president or treasurer of such business.

73 (c) "Candidate for public office" means any individual who has filed
74 a declaration of candidacy or a petition to appear on the ballot for
75 election as a public official, or who has raised or expended money in
76 furtherance of such candidacy, or who has been nominated for
77 appointment to serve as a public official, but shall not include a
78 candidate for the office of senator or representative in Congress.

79 (d) "Commission" means the State Ethics Commission established in
80 section 1-80, as amended.

81 (e) "Gift" means anything of value, which is directly and personally
82 received, unless consideration of equal or greater value is given in
83 return. "Gift" shall not include:

84 (1) A political contribution otherwise reported as required by law or
85 a donation or payment as described in subdivision (9) or (10) of
86 subsection (b) of section 9-333b;

87 (2) Services provided by persons volunteering their time;

88 (3) A commercially reasonable loan made on terms not more
89 favorable than loans made in the ordinary course of business;

90 (4) A gift received from (A) an individual's spouse, fiance or fiancée,
91 (B) the parent, brother or sister of such spouse or such individual, or
92 (C) the child of such individual or the spouse of such child;

93 (5) Goods or services (A) which are provided to the state (i) for use
94 on state property, or (ii) to support an event or the participation by a
95 public official or state employee at an event, and (B) which facilitate
96 state action or functions. As used in this subdivision, "state property"
97 means (i) property owned by the state, or (ii) property leased to an
98 agency in the Executive or Judicial Department of the state;

99 (6) A certificate, plaque or other ceremonial award costing less than
100 one hundred dollars;

101 (7) A rebate, discount or promotional item available to the general
102 public;

103 (8) Printed or recorded informational material germane to state
104 action or functions;

105 (9) Food or beverage or both, costing less than fifty dollars in the
106 aggregate per recipient in a calendar year, and consumed on an
107 occasion or occasions at which the person paying, directly or
108 indirectly, for the food or beverage, or his representative, is in
109 attendance;

110 (10) Food or beverage or both, costing less than fifty dollars per
111 person and consumed at a publicly noticed legislative reception to
112 which all members of the General Assembly are invited and which is

113 hosted not more than once in any calendar year by a lobbyist or
114 business organization. For the purposes of such limit, (A) a reception
115 hosted by a lobbyist who is an individual shall be deemed to have also
116 been hosted by the business organization which he owns or is
117 employed by, and (B) a reception hosted by a business organization
118 shall be deemed to have also been hosted by all owners and employees
119 of the business organization who are lobbyists. In making the
120 calculation for the purposes of such fifty-dollar limit, the donor shall
121 divide the amount spent on food and beverage by the number of
122 persons whom the donor reasonably expects to attend the reception;

123 (11) Food or beverage or both, costing less than fifty dollars per
124 person and consumed at a publicly noticed reception to which all
125 members of the General Assembly from a region of the state are
126 invited and which is hosted not more than once in any calendar year
127 by a lobbyist or business organization. For the purposes of such limit,
128 (A) a reception hosted by a lobbyist who is an individual shall be
129 deemed to have also been hosted by the business organization which
130 he owns or is employed by, and (B) a reception hosted by a business
131 organization shall be deemed to have also been hosted by all owners
132 and employees of the business organization who are lobbyists. In
133 making the calculation for the purposes of such fifty-dollar limit, the
134 donor shall divide the amount spent on food and beverage by the
135 number of persons whom the donor reasonably expects to attend the
136 reception. As used in this subdivision, "region of the state" means the
137 established geographic service area of the organization hosting the
138 reception;

139 (12) A gift, including but not limited to, food or beverage or both,
140 provided by an individual for the celebration of a major life event;

141 (13) Gifts costing less than one hundred dollars in the aggregate or
142 food or beverage provided at a hospitality suite at a meeting or
143 conference of an interstate legislative association, by a person who is
144 not a registrant or is not doing business with the state of Connecticut;

145 (14) Admission to a charitable or civic event, including food and
146 beverage provided at such event, but excluding lodging or travel
147 expenses, at which a public official or state employee participates in
148 his official capacity, provided such admission is provided by the
149 primary sponsoring entity;

150 (15) Anything of value provided by an employer of (A) a public
151 official, (B) a state employee, or (C) a spouse of a public official or state
152 employee, to such official, employee or spouse, provided such benefits
153 are customarily and ordinarily provided to others in similar
154 circumstances; or

155 (16) Anything having a value of not more than ten dollars, provided
156 the aggregate value of all things provided by a donor to a recipient
157 under this subdivision in any calendar year shall not exceed fifty
158 dollars.

159 (f) "Immediate family" means any spouse, children or dependent
160 relatives who reside in the individual's household.

161 (g) "Individual" means a natural person.

162 (h) "Member of an advisory board" means any individual (1)
163 appointed by a public official as an advisor or consultant or member of
164 a committee, commission or council established to advise, recommend
165 or consult with a public official or branch of government or committee
166 thereof, (2) who receives no public funds other than per diem
167 payments or reimbursement for his actual and necessary expenses
168 incurred in the performance of his official duties, and (3) who has no
169 authority to expend any public funds or to exercise the power of the
170 state.

171 (i) "Person" means an individual, sole proprietorship, trust,
172 corporation, limited liability company, union, association, firm,
173 partnership, committee, club or other organization or group of
174 persons.

175 (j) "Political contribution" has the same meaning as in section 9-333b
176 except that for purposes of this part, the provisions of subsection (b) of
177 that section shall not apply.

178 (k) "Public official" means any state-wide elected officer, any
179 member or member-elect of the General Assembly, any person
180 appointed to any office of the legislative, judicial or executive branch
181 of state government by the Governor or an appointee of the Governor,
182 with or without the advice and consent of the General Assembly, any
183 public member or representative of the teachers' unions or state
184 employees' unions appointed to the Investment Advisory Council
185 pursuant to subsection (a) of section 3-13b, any person appointed or
186 elected by the General Assembly or by any member of either house
187 thereof, and any member or director of a quasi-public agency, but shall
188 not include a member of an advisory board, a judge of any court either
189 elected or appointed or a senator or representative in Congress.

190 (l) "Quasi-public agency" means the Connecticut Development
191 Authority, Connecticut Innovations, Incorporated, Connecticut Health
192 and Education Facilities Authority, Connecticut Higher Education
193 Supplemental Loan Authority, Connecticut Housing Finance
194 Authority, Connecticut Housing Authority, Connecticut Resources
195 Recovery Authority, Connecticut Hazardous Waste Management
196 Service, Lower Fairfield County Convention Center Authority, Capital
197 City Economic Development Authority and Connecticut Port
198 Authority.

199 (m) "State employee" means any employee in the executive,
200 legislative or judicial branch of state government, whether in the
201 classified or unclassified service and whether full or part-time, and any
202 employee of a quasi-public agency, but shall not include a judge of any
203 court, either elected or appointed.

204 (n) "Trust" means a trust in which any public official or state
205 employee or member of his immediate family has a present or future
206 interest which exceeds ten per cent of the value of the trust or exceeds

207 fifty thousand dollars, whichever is less, but shall not include blind
208 trusts.

209 (o) "Business organization" means a sole proprietorship,
210 corporation, limited liability company, association, firm or partnership,
211 other than a client lobbyist, which is owned by, or employs, one or
212 more individual lobbyists.

213 (p) "Client lobbyist" means a person on behalf of whom lobbying
214 takes place and who makes expenditures for lobbying and in
215 furtherance of lobbying.

216 (q) "Necessary expenses" means a public official's or state
217 employee's expenses for an article, appearance or speech or for
218 participation at an event, in his official capacity, which shall be limited
219 to necessary travel expenses, lodging for the nights before, of and after
220 the appearance, speech or event, meals and any related conference or
221 seminar registration fees.

222 (r) "Lobbyist" and "registrant" shall be construed as defined in
223 section 1-91.

224 (s) "Legal defense fund" means a fund established for the payment
225 of legal expenses of a public official or state employee incurred as a
226 result of defending himself or herself in an administrative, civil,
227 criminal or constitutional proceeding concerning matters related to the
228 official's or employee's service or employment with the state or a
229 quasi-public agency.

230 Sec. 3. Section 1-82 of the general statutes is repealed and the
231 following is substituted in lieu thereof (*Effective from passage*):

232 (a) (1) Upon the complaint of any person on a form prescribed by
233 the commission, signed under penalty of false statement, or upon its
234 own complaint, the commission shall investigate any alleged violation
235 of this part or section 1 of this act. Not later than five days after the
236 receipt or issuance of such complaint, the commission shall provide

237 notice of such receipt or issuance and a copy of the complaint by
238 registered or certified mail to any respondent against whom such
239 complaint is filed and shall provide notice of the receipt of such
240 complaint to the complainant. When the commission undertakes an
241 evaluation of a possible violation of this part or section 1 of this act
242 prior to the filing of a complaint by the commission, the subject of the
243 evaluation shall be notified within five business days after a
244 commission staff member's first contact with a third party concerning
245 the matter.

246 (2) In the conduct of its investigation of an alleged violation of this
247 part, the commission shall have the power to hold hearings, administer
248 oaths, examine witnesses, receive oral and documentary evidence,
249 subpoena witnesses under procedural rules adopted by the
250 commission as regulations in accordance with the provisions of
251 chapter 54 to compel attendance before the commission and to require
252 the production for examination by the commission of any books and
253 papers which the commission deems relevant in any matter under
254 investigation or in question. In the exercise of such powers, the
255 commission may use the services of the state police, who shall provide
256 the same upon the commission's request. The commission shall make a
257 record of all proceedings conducted pursuant to this subsection. Any
258 witness summoned before the commission shall receive the witness fee
259 paid to witnesses in the courts of this state. During the investigation
260 the respondent shall have the right to appear and be heard and to offer
261 any information which may tend to clear him of probable cause to
262 believe he has violated any provision of this part or section 1 of this
263 act. The respondent shall also have the right to be represented by legal
264 counsel and to examine and cross-examine witnesses. Not later than
265 ten days prior to the commencement of any hearing conducted
266 pursuant to this subsection, the commission shall provide the
267 respondent with a list of its intended witnesses. The commission shall
268 make no finding that there is probable cause to believe the respondent
269 is in violation of any provision of this part or section 1 of this act
270 except upon the concurring vote of four of its members.

271 (b) If a preliminary investigation indicates that probable cause exists
272 for the violation of a provision of this part or section 1 of this act, the
273 commission shall initiate hearings to determine whether there has been
274 a violation of this part or section 1 of this act. A judge trial referee, who
275 shall be assigned by the Chief Court Administrator and who shall be
276 compensated in accordance with section 52-434 out of funds available
277 to the commission, shall preside over such hearing and shall rule on all
278 matters concerning the application of the rules of evidence, which shall
279 be the same as in judicial proceedings. The trial referee shall have no
280 vote in any decision of the commission. All hearings of the commission
281 held pursuant to this subsection shall be open. At such hearing the
282 commission shall have the same powers as under subsection (a) of this
283 section and the respondent shall have the right to be represented by
284 legal counsel, the right to compel attendance of witnesses and the
285 production of books, documents, records and papers and to examine
286 and cross-examine witnesses. Not later than ten days prior to the
287 commencement of any hearing conducted pursuant to this subsection,
288 the commission shall provide the respondent with a list of its intended
289 witnesses. The judge trial referee shall, while engaged in the discharge
290 of his duties as provided in this subsection, have the same authority as
291 is provided in section 51-35 over witnesses who refuse to obey a
292 subpoena or to testify with respect to any matter upon which such
293 witness may be lawfully interrogated, and may commit any such
294 witness for contempt for a period no longer than thirty days. The
295 commission shall make a record of all proceedings pursuant to this
296 subsection. The commission shall find no person in violation of any
297 provision of this part or section 1 of this act except upon the
298 concurring vote of five of its members. Not later than fifteen days after
299 the public hearing conducted in accordance with this subsection, the
300 commission shall publish its finding and a memorandum of the
301 reasons therefor. Such finding and memorandum shall be deemed to
302 be the final decision of the commission on the matter for the purposes
303 of chapter 54. The respondent, if aggrieved by the finding and
304 memorandum, may appeal therefrom to the Superior Court in
305 accordance with the provisions of section 4-183.

306 (c) If the commission finds, after a hearing pursuant to this section,
307 that there is no probable cause to believe that a public official or state
308 employee has violated a provision of this part or section 1 of this act or
309 that a public official or state employee has not violated any such
310 provision, or if a court of competent jurisdiction overturns a finding by
311 the commission of a violation by such a respondent, the state shall pay
312 the reasonable legal expenses of the respondent as determined by the
313 Attorney General or by the court if appropriate. If any complaint
314 brought under the provisions of this part or section 1 of this act is
315 made with the knowledge that it is made without foundation in fact,
316 the respondent shall have a cause of action against the complainant for
317 double the amount of damage caused thereby and if the respondent
318 prevails in such action, he may be awarded by the court the costs of
319 such action together with reasonable attorneys' fees.

320 (d) No complaint may be made under this section except within
321 three years next after the violation alleged in the complaint has been
322 committed.

323 (e) No person shall take or threaten to take official action against an
324 individual for such individual's disclosure of information to the
325 commission under the provisions of this part. After receipt of
326 information from an individual under the provisions of this part, the
327 commission shall not disclose the identity of such individual without
328 his consent unless the commission determines that such disclosure is
329 unavoidable during the course of an investigation.

330 Sec. 4. Section 1-88 of the general statutes is repealed and the
331 following is substituted in lieu thereof (*Effective from passage*):

332 (a) The commission, upon a finding made pursuant to section 1-82,
333 as amended by this act, that there has been a violation of any provision
334 of this part or section 1 of this act, shall have the authority to order the
335 violator to do any or all of the following: (1) Cease and desist the
336 violation of this part or section 1 of this act; (2) file any report,
337 statement or other information as required by this part or section 1 of

338 this act; and (3) pay a civil penalty of not more than two thousand
339 dollars for each violation of this part or section 1 of this act.

340 (b) Notwithstanding the provisions of subsection (a) of this section,
341 the commission may, after a hearing conducted in accordance with
342 sections 4-176e to 4-184, inclusive, upon the concurring vote of five of
343 its members, impose a civil penalty not to exceed ten dollars per day
344 upon any individual who fails to file any report, statement or other
345 information as required by this part or section 1 of this act. Each
346 distinct violation of this subsection shall be a separate offense and in
347 case of a continued violation, each day thereof shall be deemed a
348 separate offense. In no event shall the aggregate penalty imposed for
349 such failure to file exceed two thousand dollars.

350 (c) The commission may also report its finding to the Chief State's
351 Attorney for any action deemed necessary. The commission, upon a
352 finding made pursuant to section 1-82 that a member or member-elect
353 of the General Assembly has violated any provision of part I of chapter
354 10, shall notify the appropriate house of the General Assembly, in
355 writing, of its finding and the basis for such finding.

356 (d) Any person who knowingly acts in his financial interest in
357 violation of section 1-84, as amended, 1-85, [or] 1-86 or section 1 of this
358 act or any person who knowingly receives a financial advantage
359 resulting from a violation of any of said sections shall be liable for
360 damages in the amount of such advantage. If the commission
361 determines that any person may be so liable, it shall immediately
362 inform the Attorney General of that possibility.

363 (e) Any employee or member of the commission who, in violation of
364 this part, discloses information filed in accordance with subparagraph
365 (B) or subparagraph (F) of subdivision (1) of subsection (b) of section 1-
366 83, shall be dismissed, if an employee, or removed from the
367 commission, if a member.

368 Sec. 5. Section 1-89 of the general statutes is repealed and the
369 following is substituted in lieu thereof (*Effective from passage*):

370 (a) Any person who intentionally violates any provision of this part
 371 or section 1 of this act shall be imprisoned for a term not to exceed one
 372 year or shall be fined an amount not to exceed two thousand dollars,
 373 or both, provided no person may be found guilty of a violation of
 374 subsection (f) or (g) of section 1-84, as amended, and bribery or bribe
 375 receiving under section 53a-147, as amended, or 53a-148, as amended,
 376 upon the same incident, but such person may be charged and
 377 prosecuted for all or any of such offenses upon the same information.

378 (b) The penalties prescribed in this part shall not limit the power of
 379 either house of the legislature to discipline its own members or
 380 impeach a public official, and shall not limit the power of agencies or
 381 commissions to discipline their officials or employees.

382 (c) The Attorney General may bring a civil action against any person
 383 who may be liable for damages under the provisions of subsection (d)
 384 of section 1-88, as amended by this act. In any such action, the
 385 Attorney General may, in the discretion of the court, recover additional
 386 damages in an amount not exceeding twice the amount of the actual
 387 damages.

388 (d) Any fines, penalties or damages paid, collected or recovered
 389 under section 1-88, as amended by this act, or this section for a
 390 violation of any provision of this part or section 1 of this act applying
 391 to the office of the Treasurer shall be deposited on a pro rata basis in
 392 any trust funds, as defined in section 3-13c, affected by such violation.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>

GAE *Joint Favorable Subst.*